IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

WP(C).No. 35977 of 2007(G)

PETITIONER:

C.A.CHACKO ,AGED 72 YEARS
S/O. C.C. ABRAHAM, CHATHENKERIL HOUSE
ROSE MOUNT, STADIUM ROAD,THIRUVALLA,
MANAGER, KADAPRA ST. THOMAS HIGH SCHOOL,
NIRANAM.

BY ADV. SMT.DEEPA G. PAL

RESPONDENTS:

---

1. STATE OF KERALA REPRESENTED BY SECRETARY
DEPARTMENT OF LOCAL ADMINISTRATION
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. LAND REVENUE COMMISSIONER
THIRUVANANTHAPURAM.

3. REVENUE DIVISIONAL OFFICER, THIRUVALLA.

4. NIRANAM GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY, NIRANAM.

5. PRESIDENT, NIRANAM GRAMA PANCHAYATH.

BY GOVT. PLEADER SRI I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

W.P.(C) 35977 OF 2007

Dated: December 5, 2007

JUDGMENT

The petitioner had applied for assignment of 35 cents of land and the Tahsildar did not recommend the application for assignment. Thereupon the petitioner filed an appeal before the 3rd respondent which was rejected by Ext.P4. Ext.P4 was challenged in revision before the 2nd respondent and that also was dismissed by Ext.P8.

2. The reason stated for rejection in Exts.P4 and P8 is mainly that the land in question, the assignment of which was sought for by the petitioner, is vested in the Panchayat by virtue of the provisions contained in sec.218 of the Kerala Panchayat Raj Act and therefore the land is not assignable under the Land Assignment Rules. It is challenging these orders that this writ petition has been filed by the petitioner who is also making reference to Exts.P6 and P7.

2. Ext.P6 is a representation filed before the 5th respondent Grama Panchayat. On the basis of Ext.P6, the 5th respondent has issued Ext.P7 supporting the plea of the petitioner for assignment of the land.

3. On considering the contentions raised by the petitioner in this writ petition, I do not see anything invalidating Exts.P4 or P8. The land being

one vested in the Panchayat, there is nothing wrong in the reasoning of the respondents that it is not a land assignable in terms of the Land Assignment Act or the Rules. Ext.P7 is dated 15.11.2007 and as on that date the Panchayat Raj Act came into force. Ext.P8 is dated 24.10.2007 and from this it appears that Ext.P8 was issued before the Panchayat had taken the decision favourable to the petitioner. If so, the correctness of Ext.P8 cannot be examined in the light of Ext.P7. For these reasons, I can only sustain Ext.P4.

5. In so far as Ext.P7 now relied on by the petitioner is concerned, the petitioner contends that since the Panchayat has supported his case for assignment of the land, the authorities should re-consider the matter.

6. I am not inclined to accept this contention also . However, I clarify that if the Panchayat is supporting the case of the petitioner, taking advantage of the letter Ext.P7, it will be open to the petitioner to approach the authorities for assignment of the land, in which case his application will be considered on its merits.

The writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE

mt/-